Business Tax Credits

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Introduction

The state offers a number of business tax credits that can be claimed under the corporate income/franchise tax and the individual income tax. One credit, the angel investment credit, is only available under the individual income tax. The following four credits can also be claimed under the premiums tax and gross investment income tax paid by insurance companies: (a) early stage seed; (b) insurance security fund assessment; (c) development zones; and (d) low-income housing tax credits. The manufacturing and agriculture credit is not available to insurance companies that pay the franchise tax. The employee college savings account contribution credit may not be claimed by individuals or sole proprietors, but can be claimed by partners of a partnership, members of a limited liability company, or shareholders of a tax-option corporation.

A tax credit is an amount that is subtracted from the gross income tax liability of the taxpayer in a given year. In general, a tax credit differs from a deduction in that the credit is subtracted from the tax itself, resulting in a dollar-for-dollar reduction in the gross tax liability. In contrast, a deduction is subtracted from income, resulting in a reduction in the amount of income subject to tax.

Some tax credits are refundable. When a refundable tax credit exceeds gross tax liability, the taxpayer receives a payment for the difference between the credit amount and the tax liability. For the nonrefundable credits, unused amounts generally can be carried forward and claimed in future years. In some cases, unused credits can be sold or otherwise transferred to other taxpayers.

The nonrefundable and refundable tax credits available to businesses in tax year 2019 are described throughout the remainder of this paper.

Attachments I and II provide information for credits that are described in this paper and that are available in tax year 2019, as well as credits that are no longer available. Nonrefundable credits that have sunset may have unused amounts carried forward from prior years that can be used to offset future tax liability. Totals are not included for the number of taxpayers claiming credits because multiple credits may be claimed by an individual taxpayer.

Attachment I provides a list of credits that were claimed and used as offsets against the individual income tax, the corporate income/franchise tax, and the insurance premiums tax in tax year 2013. Attachment I shows the number of claimants, the amount of credits used, and the average amount of each credit per claimant in tax year 2013 (the most recent year for which data is available). As shown in Attachment I, approximately $231.3 million in business tax credits were used to offset state tax liability in tax year 2013.

Unlike nonrefundable credits, refundable credits paid during the state fiscal year are recorded as expenditures in the state's annual fiscal report. Attachment II provides expenditure data for each refundable credit in 2017-18 as reported by the Department of Revenue (DOR).

Administration

Claiming a Tax Credit. In general, businesses may be eligible to claim a business tax credit when preparing and filing the required individual and corporate income/franchise tax forms with

Department of Revenue (DOR), or premiums tax forms with the Office of the Commissioner of Insurance. If a nonrefundable credit exceeds tax liability, any amounts claimed that cannot be used to offset tax liability are identified so that the taxpayer can carry the unused amount forward for use in a future tax year. In general, unused tax credits may be carried forward for up to 15 years (except the insurance security fund assessment credit, which is the only credit that does not carry forward for use in a future year). Thus, credits may be used in tax years long after they are earned (even in cases where the tax credit was sunset many years ago).

As noted, taxpayers claim a refundable credit to reduce taxes otherwise due and/or to receive a check for the amount of the credit in excess of the claimant's tax liability in that year. Alternatively, a business may choose to apply any excess refundable tax credit as a payment towards its tax liability in the next year.

Partnerships, limited liability companies (LLCs), and tax-option corporations (S corporations) generally cannot claim the tax credits provided under the state corporate income/franchise tax, but eligibility for, and the amount of, the credit are based on the entity's payment of eligible expenses. A partnership, LLC, or S corporation is required to compute the amount of the credit that each of its partners, members, or shareholders can claim and provide that information to them. Partners, members of LLCs, and shareholders of S corporations can generally claim the credit in proportion to their ownership interest.

For the early stage seed investment credits, partners, members of LLCs, and shareholders of S corporations can either claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents. Partnerships and LLCs can compute the angel investment credits in the same manner as the early stage seed credit. Shareholders of S corporations are not eligible to claim the angel investment credit.

For the supplement to the federal historic rehabilitation tax credit, partnerships and LLCs can compute and allocate the credit among their partners or members in proportion to their ownership interest or as provided in a written agreement among the partners or members that is entered into no later than the last day of the entity's taxable year; however, for shareholders of S corporations, the credit may only be allocated in proportion to each shareholder's ownership interest.

Wisconsin Economic Development Corporation (WEDC). Some business tax credits are jointly administered by DOR and WEDC. WEDC is responsible for certifying and verifying eligible claimants under the following tax credit programs: (a) business development; (b) enterprise zones; (c) electronic and information technology manufacturing zone; (d) development opportunity zone; (e) historic preservation; and (f) early stage seed and angel business investment. By statute, many of these credits have maximum amounts that can be claimed in a single year or in the aggregate.

WEDC may certify an applicant if the applicant is conducting or intends to conduct at least one eligible activity. However, specific requirements apply for each program. For example, for the development zone and electronic and information technology manufacturing zone tax credit programs, WEDC may not certify a person to receive tax benefits unless the contract requires the person to repay any tax benefit if, within five years after being certified to receive them, the person ceases to conduct the relevant economic activity in this state and commences substantially the same economic activity outside the state. For the early stage seed and angel investment tax credits, WEDC may certify an applicant as a qualified new business venture if several conditions are met, such as its headquarters and at least 51% of its workforce are located in Wisconsin.

In general, when awarding a tax benefit to an applicant WEDC must require the applicant to sign a contract which sets out a compliance schedule of anticipated actions and reporting requirements. For the early stage seed and angel investment tax credits, WEDC certifies and enters into contracts with qualified new business ventures and fund managers, but does not enter into a contract with the investors that claim the tax credits under those programs.

When reporting information pursuant to a contract with WEDC, each recipient (or the director or principal officer of the recipient) of a tax credit is required to submit a signed statement to WEDC attesting to the accuracy and truthfulness of the information provided. WEDC must independently verify, from a sample of tax credits, the accuracy of the information required to be reported.

Claimants are required to include, with their tax returns, a copy of the certification for tax benefits and verification of expenses from WEDC.

In general, WEDC must revoke a certification for tax benefits if the business submits false or misleading information. Further, specific requirements regarding revocation apply for certain tax credit programs. For example, for the electronics and information technology manufacturing zone and enterprise zone tax credit programs, WEDC must revoke certification if the business leaves the zone to conduct substantially the same business outside the zone or ceases operations in the zone and does not renew operation of the business or similar business in the zone within 12 months.

WEDC may require repayment clauses in its contracts with applicants or when revoking an applicant's certification. For the development zone and electronic and information technology manufacturing zone tax credits, WEDC may require applicants to repay tax benefits for failing to maintain contracted levels of employment or capital expenditures under the business development, electronic and information technology manufacturing zone, and enterprise zone credit programs.

WEDC is required to provide the following information to DOR by the last day of the first month of each calendar quarter for each of the credits that the two agencies jointly administer, including any credits transferred to another claimant:

a. Certification of a person for credits;

b. Amount of the credits certified;

c. Revocation of a credit certification;

d. Verification that a certified person has completed the activities required in order to claim a credit;

e. Amount of credit that may be claimed as a result of the verification;

f. A list of the businesses and individuals that will be eligible to claim the credit following the verification, including owners of pass-through entities;

g. The taxable years of such businesses and individuals; and

h. Any other information that DOR and WEDC determine necessary to accurately track certification and usage of the credits.

Each person WEDC certifies for tax credits must provide all of the information necessary for WEDC to comply with its reporting requirements to DOR.

For all tax credits administered by WEDC, DOR must track the amount of credits that have been claimed or used to offset tax liability and the amount of all available unused credits. For taxable years beginning on or after January 1, 2017, DOR is prohibited from paying interest on claims for any WEDC-certified refundable tax credits.

Pursuant to 2017 Act 59, DOR may make an assessment to recover all or a part of any tax credit claimed by the taxpayer that was revoked by

WEDC within one year of receiving notice of the revocation from WEDC. For electronics and information technology manufacturing zone credits, WEDC may recover revoked credits from a pass-through entity or its individual owners.

For additional information on WEDC, and its programs, please see the Legislative Fiscal Bureau's informational paper entitled, "Wisconsin Economic Development Corporation."

Wisconsin Housing and Economic Development Authority (WHEDA). WHEDA and DOR jointly administer the low-income housing tax credit. WHEDA may certify a person to claim the credit by issuing an allocation certificate declaring that a qualified development is eligible for a state tax credit and specifying the amount of the credit that the owners of the qualified development may claim.

Department of Agriculture, Trade and Consumer Protection (DATCP). Eligibility for the farmland preservation tax credit is determined by both DATCP and the county land conservation committees. In general, DATCP certifies eligible farmland acreage, and county land conservation staff certify landowner compliance with state soil and water conservation standards, which is required to claim the credit.

Sunset Credits. A number of previously available tax credits have been sunset by the Legislature. For nonrefundable credits that have sunset, the credit typically cannot be earned after the sunset date, but unused amounts may continue to be carried forward from a previous tax year. Further, in some cases, both nonrefundable and refundable credits may be claimed under a contract with WEDC (or another state agency) for an agreed schedule of activities.

Pursuant to 2013 Wisconsin Acts 20, 116, and 145, fifteen credits were sunset following tax year 2013 and three credits were sunset following tax year 2014. 2015 Wisconsin Act 55 sunset the nonrefundable economic development credit and the refundable jobs credit after December 31, 2015, and consolidated the two credits under the business development tax credit, which took effect beginning in tax year 2016. For both credits, if WEDC allocated tax benefits to the claimant before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute and claim the credits for as long as the contract specifies. WEDC entered into economic development tax credit contracts authorizing credits to be earned by businesses through tax year 2019 and jobs tax credit contracts through tax year 2023 prior to the sunset date.

Nonrefundable Tax Credits

As previously noted, unused nonrefundable credits that exceed the taxpayer's liability can generally be carried forward for use in future tax years. For each of the credits described in this section, except for the insurance security fund assessment credit, unused credit amounts can be carried forward and used in the following 15 taxable years. Unused amounts of the insurance security fund assessment credit cannot be carried forward.

Manufacturing and Agriculture Credit. The manufacturing and agriculture (MAC) tax credit equals 7.5% of the claimant's eligible qualified production activities income derived from Wisconsin property that is assessed as manufacturing or agricultural.

The MAC is designed to provide tax relief in proportion to the amount of the claimant's manufacturing and agricultural property that is located in Wisconsin. For example, if half of the property a claimant owns or uses in manufacturing activities is located in Wisconsin, then the MAC would be equal to 7.5% of half of the claimant's eligible qualified production activities income.

To determine "eligible qualified production activities income" to which the credit rate applies, "qualified production activities income" is first calculated. "Qualified production activities income" is defined as the amount of the claimant's production gross receipts for the tax year that exceeds the sum of the cost of goods sold that are allocable to such receipts, direct costs allocable to such receipts, and indirect costs multiplied by the "production gross receipts factor."

"Production gross receipts factor" means a fraction, the numerator of which is "production gross receipts" and the denominator of which is all income from whatever source, except those items excluded under the Internal Revenue Code (IRC) that are adopted and otherwise excluded under Wisconsin law. The denominator includes the following as income prior to apportioning income to Wisconsin: (a) sales; (b) gross dividends; (c) gross interest income; (d) gross rents; (e) gross royalties; (f) the gross sales price from the disposition of capital assets and business assets; (g) gross income from pass-through entities; and (h) all other gross receipts that are included in income. "Production gross receipts" are gross receipts from the lease, rental, license, sale, exchange, or other disposition of "qualified production property."

"Qualified production property" means either of the following: (a) tangible personal property manufactured in whole, or in part, by the claimant on property that is assessed as manufacturing property under state property tax law; or (b) tangible personal property produced, grown, or extracted in whole, or in part, by the claimant on, or from, property that is assessed as Wisconsin agricultural property.

"Qualified production activities income" does not include: (a) income from film production; (b) income from producing, transmitting, or distributing electricity, natural gas, or potable water; (c) income from constructing real property; (d) income from engineering or architectural services performed with respect to constructing real property; (e) income from the sale of food and beverages prepared by the claimant at a retail establishment; or (f) income from the lease, rental, license, sale, exchange, or other disposition of land.

"Qualified production activities income" is modified to determine eligible qualified production activities income. Specifically, the claimant is required to multiply the qualified production activities income from property manufactured by the claimant by the manufacturing property factor, and the qualified production activities income from property produced, grown, or extracted by the claimant by the agriculture property factor. For corporations, the amount of eligible qualified production activities income that can be claimed in computing the credit is the lesser of: (a) the eligible qualified production activities income determined under these provisions; (b) income apportioned to Wisconsin under state income/franchise tax allocation and separate accounting, and/or apportionment provisions; or (c) income determined as taxable under state combined reporting provisions. For individuals, the credit may only be used to offset tax imposed on eligible manufacturing or agricultural income. It cannot be used to offset the tax on other sources of income earned by the claimant. In addition, 2017 Act 59 requires that the amount of income on which the MAC is calculated must be reduced by the amount of qualified production activities income that is claimed under the credit for taxes paid to another state, beginning with tax year 2017.

The "manufacturing property factor" is calculated as a fraction. The numerator is the average value of the claimant's real and personal property assessed as manufacturing property owned or rented, and used in Wisconsin by the claimant during the tax year to manufacture qualified production property. The denominator is the average value of all the claimant's real and personal property owned or rented during the tax year and used by the claimant to manufacture qualified production property. The "agriculture property factor" is calculated in a similar manner based on the claimant's agricultural property.

Current law generally requires state tax credits to be added to income in the tax year for which they are computed, regardless of whether or not the credit is used. However, the manufacturing and agriculture credit is based on the eligible qualified production activities income of the claimant for that year. To address this issue, the claimant is required to include the current tax year's manufacturing and agricultural credit in income in the following tax year.

The current credit percentage of 7.5% took effect in tax year 2016 and was phased in over a four-year period beginning in tax year 2013. The credit percentage was equal to: (a) 1.875% for tax year 2013; (b) 3.75% for 2014; and (c) 5.025% for 2015.

Nonrefundable Research Credit. The state provides research credits to businesses equal to a percentage of the increase in a business's qualified research expenses, as defined under the IRC, for research conducted in Wisconsin. For most businesses, the credit equals 5.75% of the amount by which the claimant's qualified research expenses for the taxable year exceed 50% of the average qualified research expenses for the three taxable years immediately preceding the tax year in which the claimant claims the credit. If the taxpayer had no qualified research expenses in any of the three preceding tax years, the credit is equal to 2.875% of the claimant's qualified research expenses for that tax year.

For businesses that engage in certain types of research activities, the same calculation of the credit applies, but the credit percentages are equal to 11.5% (rather than 5.75%) and 5.75% (rather than 2.875%). The higher percentages apply to the following types of qualified research expenses incurred in Wisconsin:

a. Designing internal combustion engines (including substitute products such as fuel cell, electric, and hybrid drives) for vehicles, including expenses related to designing vehicles that are powered by such engines, and improving production processes for such engines and vehicles; and

b. Designing and manufacturing energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles that reduce the demand for natural gas or electricity, or improve the efficiency of its use.

The credit applies only to qualified research expenses paid or incurred by the taxpayer in carrying on a trade or business of the taxpayer that are research and development costs in an experimental or laboratory sense. In general, qualifying expenses are non-capital, and thus, do not include spending for buildings and equipment. Qualified research expenses are the sum of: (a) in-house expenditures for wages and supplies used in research, plus certain amounts paid or incurred to another person for the right to use computers; and (b) 65% of the amount paid by the taxpayer for qualified research conducted on behalf of the taxpayer. Qualified research is research which is undertaken for the purpose of discovering information which is technological in nature and the application of which is intended to be useful in the development of a new or improved business component of the taxpayer. In addition, substantially all of the activities of the research must be elements of a process of experimentation relating to a new or improved function, performance, reliability, or quality.

Only expenses for eligible research activities conducted in Wisconsin qualify for the credit. Members of combined groups must compute their own research credits separately. However, a member can share unused credits with other members of the same combined group to offset other members' tax liabilities.

Pursuant to 2017 Act 59, up to 10% of the amount of research credit computed may be claimed as a refundable credit beginning in tax year 2018. The remaining portion of the credit is nonrefundable. Any unused amount of the nonrefundable portion of the credit can be carried forward for up to 15 years. Prior to tax year 2018, the entire amount of the credit was nonrefundable, and any unused amounts carried forward from tax years prior to 2018 remain nonrefundable.

Early Stage Business Investment Credits. The early stage business investment program includes the angel investment tax credit and the early stage seed investment tax credit. The angel investment tax credit equals 25% of the claimant's bona fide angel investment made directly in a qualified new business venture (QNBV) certified by WEDC. The early stage seed investment tax credit is equal to 25% of the claimant's investment paid in the tax year to a certified fund manager that the fund manager invests in a QNBV certified by WEDC. WEDC can verify investments as eligible to claim up to $30 million of angel and early stage seed credits per calendar year.

Pursuant to 2017 Act 234, the aggregate amount of investment in any one QNBV that may qualify for angel investment or early stage seed investment tax credits is $12.0 million. Investments in a QNBV must be maintained in the business by an angel investor, angel investment network, or certified fund manager for at least three years.

WEDC is required to certify QNBVs and fund managers and to perform other administrative functions related to the allocation and transfer of credits, revocation of certifications, verification of investments and credits, and processing and compiling reports. Businesses and fund managers must apply to WEDC to be certified.

Qualified New Business Venture. A business may be certified as a QNBV by WEDC only if it meets all of the following conditions:

a. It has its headquarters in Wisconsin.

b. At least 51% of its employees are employed in the state.

c. It has the potential for increasing jobs and/or capital investment in Wisconsin and the business is engaged in, or has committed to engage in, innovation in any of the following: (1) manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology; (2) processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying differentiating technology; or (3) services that are enabled by applying differentiating technology.

d. It is undertaking pre-commercialization activity related to differentiating technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying differentiating technology.

e. The business is not primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction (except construction of power production plants that derive energy from a renewable resource).

f. It has fewer than 100 employees at the time of initial certification.

g. The business has not been operating in Wisconsin for more than 10 consecutive years at the time of initial certification.

h. It has not received aggregate private equity investments of more than $10.0 million before initial certification.

i. It has not received more than $12.0 million in investments that have qualified for tax credits under the program.

In addition, in determining whether to certify a business, WEDC will consider at least the following factors: (a) whether the business is in one of Wisconsin's targeted industries, as determined by WEDC; (b) high growth potential of the business; (c) management team experience; (d) financial need; (e) percentage of funds that will be spent in Wisconsin; and (f) barriers to entry. Each QNBV must be recertified in each taxable year in which it desires certification. Each business certified by WEDC as a QNBV must provide a statement in its private placement memorandum or equivalent documents indicating that WEDC does not endorse the quality of management of the business and is not liable for damages or losses to an investor.

A QNBV must agree that it will not relocate outside the state during the three years after it receives an investment eligible to receive early stage business investment credits. If the QNBV has received investments eligible for tax credits, it must agree to pay WEDC a penalty if the business relocates more than 51% of its employees, total payroll, or its headquarters, as determined by WEDC, outside the state within the three-year period. The penalty is equal to: (a) 100% of the credits claimed if the relocation occurs less than 12 months after the eligible investment; (b) 80% of the credits claimed if the relocation occurs between 12 and 24 months after the eligible investment; or (c) 60% of the credits claimed if the relocation occurs 24 months or more after the eligible investment. However, if WEDC determines that the QNBV's total payroll and number of employees in Wisconsin have not diminished, the business is not considered to have relocated outside the state and the penalty does not apply. The penalty for relocating outside the state does not apply to a QNBV that was certified by WEDC before April 20, 2012, and that, in reliance of that certification, executed a note or bond that is convertible to an equity interest for which an angel investment credit was claimed.

Certified Fund Manager. In order to be eligible for investments that qualify for early stage seed investment tax credits, the fund manager must be certified by WEDC. In determining whether to certify an investment fund manager, WEDC is required to consider: (a) the applicant's experience in managing venture capital funds; (b) the past performance of funds managed by the applicant; (c) the expected level of investment in the fund to be managed by the applicant; and (d) other relevant factors determined by WEDC. WEDC also evaluates the following factors when determining whether to certify an investment fund manager: (1) the applicant's experience in investing in high growth, early stage businesses; (2) the past performance of businesses assisted by the applicant; (3) the portion of the investment fund's capital the fund manager expects to invest in QNBVs; (4) geographic distribution of the funds; (5) focus on targeted industries or target group members, as determined by WEDC; (6) ability to access follow-on funding; (7) services provided; (8) commitment to Wisconsin; and (9) administrative and management fees. WEDC requires certified fund managers to provide a statement in their private placement memorandums or equivalent documents indicating that WEDC does not endorse the quality of management of the fund and WEDC is not liable for damages or losses to the investor.

WEDC may revoke or withhold certification of a business or fund manager if the business or fund manager: (a) supplies false or misleading information to obtain the certification; (b) fails to continue to meet the required conditions or qualifications for obtaining the certification; (c) has violated, or is under investigation for violating, state, federal, or local laws or regulations related to the conduct of the activities of the business or fund; (d) has had an officer or director arrested or convicted of a crime substantially related to the activities of the business or fund; (e) is not using investment funds for a legitimate business purpose; or (f) is in default of WEDC or other state obligations.

Angel investors, angel investor networks, and venture capital funds must follow a verification process in order to receive tax credits based on eligible investments. For each investment in a QNBV, the angel investor, angel investment network, or certified fund manager is required to provide WEDC with a copy of its investor agreement and proof of investment. The investment must be clearly identifiable as being a cash investment and must be in the form of common stock, preferred stock, a partnership, membership, or equivalent ownership interest approved by WEDC. The QNBV must provide an attestation to the investment. Tax credit request forms and required documentation must be provided no later than 90 days following the end of the year in which the investment was made.

Cash exchanged for debt is not eligible for credits, unless the debt is later converted into an ownership interest, and only the original cash investment is eligible for credits. Tax-deferred or tax-advantaged accounts [such as individual retirement accounts or 401(k) accounts] are not eligible investment vehicles for tax credits. Investments made by certified fund managers with principal offices based outside Wisconsin must be made side-by-side with equity investors based in Wisconsin with a minimum participation of Wisconsin investors, as determined by WEDC. The investor cannot control, or be a spouse, grandparent, parent, sibling, child, stepchild, or grandchild of someone who controls, more than 20% of the ownership interest in a QNBV at the time an investment is made. Public funds, including investments made by the State Fund of Funds and the Federal State Small Business Credit Initiative programs cannot be used as the basis for claiming credits.

Based on a review of submitted materials, WEDC issues a verification form to the angel investor, angel investment network, or certified fund manager stating the amount of credits that may be claimed. Investors must submit a copy of the certification for tax benefits and the verification form, including the amount of tax benefits that may be claimed and the date and amount of the investment, with the investor's tax return.

WEDC can revoke verification of tax credits if the investment in the QNBV is not maintained for a minimum of three years. However, the three-year requirement does not apply in cases where: (a) WEDC determines that the investment becomes worthless prior to the end of the three-year period; or (b) the angel, angel investment network, or certified fund manager has held an investment for at least 12 months and there is a bona fide liquidity event, as determined by WEDC, prior to the end of the holding period.

A person who makes an investment in a certified fund and who is eligible to claim an early stage seed investment tax credit may sell or otherwise transfer the credit, no more than once in a 12-month period, to another person to offset that person's income, franchise, or insurance premiums tax liability. A certified fund manager is required to notify both WEDC and DOR of the transfer and submit to WEDC: (a) a transfer form, as provided by WEDC, attesting to the transfer of the credit; (b) a copy of the transfer documents that show the transfer of credits from the seller to the buyer; and (c) any other documents required by WEDC to verify the credit sale or transfer. The fund manager must pay WEDC a fee of up to 5% of the amount of tax credit that is sold or transferred under state law. Under WEDC's policies and procedures, credit transfers of up to $200,000 are subject to a 5% fee and transfers in excess of $200,000 are subject to a fee equal to the greater of $10,000 or 1% of the credit transferred.

Manufacturing Investment Credit. For taxable years beginning before January 1, 2006, a credit against taxes due could be claimed for the amount of sales and use tax paid for fuel and electricity consumed in manufacturing in

Wisconsin (manufacturer's sales tax credit). The manufacturer's sales tax credit was replaced with a sales tax exemption and manufacturing investment credit by 2003 Wisconsin Act 99.

Taxpayers having more than $25,000 of unused manufacturers' sales tax credits can claim a manufacturing investment credit for taxable years beginning after December 31, 2007. The credit is equal to the taxpayer's unused manufacturer's sales tax credits, and the credit must be amortized over 15 years, starting with taxable years beginning after December 31, 2007. The amortized amount may be offset against the taxpayer's income or franchise tax.

To qualify for the credit, a business must have been certified by the former Department of Commerce. To be certified, a business must have met certain requirements regarding in-state employment or investment.

Supplement to the Federal Historic Rehabilitation Credit. Federal law provides a 20% tax credit for qualified rehabilitation expenditures (as defined under the IRC) for certified historic structures. A "certified historic structure" is a building that is listed in the National Register of Historic Places or that is determined to be historic and will be listed in the National Register.

A state credit of 20% is a supplement to, and must be claimed at the same time as, the federal credit. Qualified rehabilitation expenditures are eligible for the credit if the rehabilitated structure is located in Wisconsin and the cost of the qualified rehabilitation expenditure is at least $50,000. The Wisconsin adjusted basis of the building must be reduced by the amount of the credit awarded.

The state credit of 20% along with the federal credit of 20% yields a total credit for qualified rehabilitation expenditures of 40%.

The Tax Cuts and Jobs Act (TCJA) of 2017 provides that the federal tax credit must be claimed ratably over a five-year period (4% per year) for expenditures paid or incurred after December 31, 2017, instead of claiming the entire credit in the year the structure was placed in service. The state credit must be claimed at the same time that the federal credit is claimed, and thus must also be claimed ratably over a five-year period. However, if the taxpayer owned or leased the building at all times on and after January 1, 2018, the TCJA allows owners to use the prior federal law and are not required to claim the credit over five years for certain projects that incur qualified rehabilitation expenditures within 24 or 60 months of June 20, 2018.

Beginning in tax year 2014, no person may claim the state credit without being certified by WEDC. WEDC may certify a claimant if it determines that the claimant is conducting an eligible activity. Under changes made in 2017 Acts 59 and 280, the amount of historic credits that WEDC can certify a person to receive is no more than $3.5 million for all rehabilitation projects undertaken on the same parcel, beginning with certifications on or after July 1, 2018.

WEDC generally certifies persons to receive credits for a three-year period commencing on the initial date of certification and requires actual qualified rehabilitation expenditures be concluded within that three-year period. A project eligible for the credits may be approved for six years if the rehabilitation is substantial or occurring in phases. However, WEDC may extend the certification period at its discretion. Pursuant to Act 59, WEDC is prohibited from certifying nonprofit entities that are not defined under section 501(c)(3) of the IRC as eligible to claim the credit unless WEDC submits a request to certify the entity to the Joint Committee on Finance under a 14-day passive review process.

Any person, including nonprofit entities, may sell or transfer the credit to any other Wisconsin taxpayer if the transferor notifies DOR in writing and submits a copy of the transferring documents.

The Department must certify ownership of the credit with each transfer.

In order to claim the credit, a claimant must include with the return a copy of the certification by WEDC. The claimant must provide WEDC with evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the U.S. Secretary of the Interior prior to beginning the physical work of construction, or destruction in preparation of construction, and that the rehabilitation was approved by the state historic preservation officer. The proposed preservation or rehabilitation plan must comply with procedures, standards, and forms required by the State Historical Society. Costs incurred to acquire the certified historic structure are not eligible for the credits. The claimant must include evidence that the taxpayer had obtained written certification from the state historic officer regarding the historical significance of the property and the proposed preservation or rehabilitation plan and expenditures.

As noted, WEDC may certify persons to claim the credit, but is not required to do so. WEDC placed a moratorium on certifying persons for the credit for historic structures, and for qualified rehabilitated buildings (described below), if the application was received after June 23, 2014. WEDC instituted the moratorium because utilization of the credit had been significantly greater than anticipated and, as a result, the revenue reduction to the state was substantially higher than had been expected. WEDC lifted the moratorium for certified historic structures on July 14, 2014.

If a person that claims the state credit is required to repay any amount of the federal credit for the same qualified rehabilitation expenditures on which the state credit was claimed, Act 59 requires that person to repay a proportionate amount of the state credit.

Previously, federal law also provided for a 10% credit for qualified rehabilitation expenditures for qualified rehabilitated buildings, which were defined as buildings that were constructed prior to 1936, but not including certified historic structures or nonresidential property converted into housing if the property had previously been used for housing.

The TCJA repealed the credit for qualified rehabilitation expenditures paid or incurred after December 31, 2017, for qualified rehabilitation buildings, with a transition rule that applies to certain expenditures beginning within 180 days of enactment of the TCJA. This effectively sunset the supplemental state credit for non-certified pre-1936 buildings.

WEDC did not lift the moratorium on certifying persons for credits for qualified rehabilitated buildings, after June 23, 2014. However, pursuant to 2015 Act 55 WEDC is required to certify a person as eligible to receive the credit for qualified expenditures on qualified rehabilitated buildings if: (a) the person was previously certified by WEDC prior to January 1, 2015; (b) the proposed project is located in the City of Green Bay; (c) the proposed project for which the person applies for the credit is on the same parcel as, or a parcel contiguous to, a project described under "a;" and (d) WEDC determines that the person that applies for the credit is eligible to claim the federal credit for the qualified historic building. Funding certifications are effective for three years commencing on the initial date of certification, or as extended by WEDC, and must be claimed based on actual qualified rehabilitation expenditures by the conclusion of the three-year period.

Community Rehabilitation Program Credit. The community rehabilitation program tax credit equals 5% of the amount the claimant pays in a tax year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract. The maximum tax credit that can be claimed is $25,000 for each community rehabilitation program with which the claimant enters into a contract. In order to claim a credit, the claimant is required to submit with the return a form that verifies that the claimant has entered into a contract with a community rehabilitation program and that the program has received payment for work provided by the program.

"Community rehabilitation program" is defined as a nonprofit entity, county, municipality, or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals.

Development Opportunity Zone Credits. Under provisions of 2009 Wisconsin Act 28, and 2011 Wisconsin Act 37, the Department of Commerce designated an area in the City of Kenosha, and WEDC designated an area in the City of Janesville and an area in the City of Beloit, as development opportunity zones that exist for five years. Any business that locates and conducts activity in the zones is eligible to claim the development zones tax credit for environmental remediation and jobs and the development zone capital investment tax credit. The maximum amount of tax credits that can be claimed by businesses in each zone is $5.0 million. In order to claim tax credits, a business that conducts economic activity in one of the zones must submit a project plan to WEDC and comply with other statutory provisions governing development opportunity zones.

WEDC can extend the zones an additional five years, and provide an additional $5.0 million in tax credits, if the extension supports economic development in the city. WEDC has provided extensions for each development opportunity zone. The zones are set to expire on: (a) February 28, 2020, in the City of Janesville; (b) March 8, 2021, in the City of Kenosha; and (c) July 31, 2021, in the City of Beloit.

Development Zones Credit for Environmental Remediation and Jobs. For the environmental remediation component of the development zones credit, a credit can be claimed for 50% of the amount expended for specified environmental remediation in a zone. "Environmental remediation" is defined as: (a) removal or containment of environmental pollution; (b) restoration of soil or groundwater that is affected by environmental pollution in a brownfield; or (c) investigation, unless the investigation determines that remediation is required and remediation is not undertaken. The removal, containment, or restoration work, other than planning and investigating, must begin after the site where the work is being done is designated a zone and after the claimant is certified for tax benefits. A "brownfield" is an industrial or commercial facility, the expansion or redevelopment of which is complicated by environmental contamination.

For the jobs component, a credit can be claimed for up to the following amounts for job creation or retention: (a) up to $8,000 for each full-time job created in a zone and filled by a member of a targeted group (generally public assistance recipients and other economically disadvantaged persons); (b) up to $8,000 for each full-time job retained in an enterprise development zone (excluding jobs for which the former jobs tax credit was claimed) if WEDC determines that the person made a significant capital investment to retain the full-time job; and (c) up to $6,000 for each full-time job created or retained filled by a Wisconsin resident who is not a member of a targeted group. Amounts claimed for Wisconsin Works (W-2) program participants must be reduced by W-2 wage subsidies that the employer receives for those jobs. At least one-third of development zones credits for jobs claimed must be based on jobs created and filled by targeted group members, unless WEDC grants an exception after determining that a business has made reasonable attempts to hire members of a targeted group. In addition, except for businesses that only claim tax credits for environmental remediation, 25% of development zone environmental remediation and jobs tax credits must be based on creating or retaining full-time jobs.

For purposes of the credit, a "full-time job" means a regular, non-seasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and benefits that are not required by federal or state law. Initial training before an employment position begins is not considered part of a "full-time job." A regular, non-seasonal full-time position may also be considered a "full-time job" if the annual pay exceeds the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620), and the position offers retirement, health, and other benefits that are equivalent to an individual in a similar position who is required, as a condition of employment, to work at least 2,080 hours per year.

Credits for job creation may be awarded to certified businesses that create jobs over a three-year period, and the business must maintain those jobs for five years, commencing on the certification date established by WEDC. Job retention credits can be awarded to certified businesses over a five-year period if those businesses retain those jobs over the entire five-year period.

Development Zone Capital Investment Credit. The development zone capital investment tax credit equals 3% of the following:

a. The purchase price of depreciable, tangible personal property that is purchased after the claimant was certified as eligible for tax benefits, and has at least 50% of its use in the claimant's business location in the zone. If the property is mobile, the base of operations for at least 50% of its use must be in the zone. Property eligible for the credit cannot be previously owned by the certified business, or a person closely related to the business, during the two years prior to submitting an application for credits to WEDC.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in the zone. Such expenses are eligible for the credit if the claimant began the physical work of construction, rehabilitation, remodeling or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a zone, or if the completed project is placed in service after the claimant is certified for tax benefits. A credit cannot be claimed for expenses for preliminary activities such as planning, designing, securing financing, research, developing specifications, or stabilizing the property to prevent deterioration.

A claimant can also claim a tax credit for amounts expended to acquire real property, if the property was not previously owned by the claimant and the claimant acquired the property after the place where the property was located was designated a zone, or if the completed project was placed in service after the clamant was certified as eligible for tax benefits.

In calculating the capital investment credit for purchases of real property, a claimant is required to reduce the amount expended to acquire the property by a percentage equal to the percentage of the area of the real property that is not used for the purposes for which the claimant is certified as eligible for tax benefits. Similarly, the amount expended for other purposes must be reduced by the amount expended on the part of the property not used for purposes for which the claimant is certified. Certified businesses generally can earn the capital investment credits over a three-year period, over which WEDC may verify credits annually on the basis of the actual eligible capital investment that took place during the preceding year.

General Provisions. A business must apply to, and be certified by, WEDC in order to earn credits under the development opportunity zone tax credit program. Ineligible businesses include: (a) payday loan and title loan companies; (b) telemarketing, other than inbound call centers; (c) pawn shops; (d) media outlets; (e) retail; (f) farms; (g) primary care medical facilities; (h) financial institutions; and (i) businesses in the hospitality industry. However, WEDC may grant exceptions to the types of businesses that are ineligible to be certified if an extraordinary circumstance exists. An extraordinary circumstance includes, but is not limited to, a serious threat of a business leaving the state, significant job creation or retention, or significant capital investment and such extraordinary circumstances are approved by WEDC's Board of Directors' Awards Administration Committee. The definition for an "ineligible business," as described above, also applies to businesses that are ineligible for the refundable enterprise zones credit and refundable business development credit.

Claimants are required to include with their tax return: (a) WEDC verification that the claimant is eligible for the credit; and (b) a statement from WEDC verifying the purchase price and eligibility of the investment. As noted, any unused development opportunity zone credits can be carried forward for up to 15 taxable years. However, if a certified business entitled to receive credits ceases business operations in the development opportunity zone during any year that the zone exists, unused credits cannot be carried forward following the year in which the business ceased operation in the zone.

Insurance Security Fund (ISF) Assessment Credit. The ISF is a non-profit legal entity designed to protect Wisconsin policyholders in the event of an insolvency of a member insurance company. Subject to specified limits, the ISF will continue to pay benefits under certain policies on behalf of insolvent insurers.

Periodic assessments may be levied on insurers to fund the ISF. Generally, the aggregate amount of assessments imposed on an individual insurer may not exceed 2% of the insurer's assessable premiums on the types of policies and contracts covered by the insurer.

If the premium rates on an insurer's class of business are fixed and the insurer is unable to recoup assessments paid to the ISF by increasing premiums on the class of business, the insurer may offset 20% of the amount of the Wisconsin portion of the assessments against its state tax liabilities in each of the five calendar years following the year in which the assessment was paid. If an insurer ceases doing business in Wisconsin and has remaining credits in future years for the paid assessments, it may use all of the remaining credits in the year it ceases doing business in the state. As noted, unused credits may not be carried forward to later years.

Fees are also assessed to cover the administrative expenses of the ISF. However, no credit is provided unless the domiciliary state allows an insurer to take credit for such expenses.

Employee College Savings Account Contribution Credit. For taxable years beginning after 2017, 2017 Act 197 creates a nonrefundable credit for employers equal to 25% of the amount an employer pays into an employee's college savings account.

The maximum amount of employer contribution that is eligible for the credit is equal to 25% of the maximum amount an individual employee may deduct for state income tax purposes. For example, in tax year 2018, an employee's maximum deduction for each beneficiary is $3,200, or $1,600 if a divorced parent or married filing separate. Therefore, the maximum employer contribution eligible for the credit in tax year 2018 is $800 per beneficiary ($3,200 x 25%) and $400 per beneficiary for an employee who is divorced or files separately ($1,600 x 25%). As a result, the maximum credit for the employer's contributions would be $200 ($800 x 25%) and $100 ($400 x 25%), respectively.

Low-Income Housing Tax Credit (LIHTC). The Wisconsin Housing and Economic Development Authority (WHEDA) is responsible for administration of the federal LIHTC on behalf of the state. The LIHTC encourages the development of multifamily properties with below-market rents for low-income households by providing tax credits, which typically are sold to investors in exchange for up-front financing. Properties receiving the credit must reserve a portion of units for low-income residents. Monthly rent for these units, including utilities, is intended to be no more than 30% of income for tenants.

The federal LIHTC is provided in two forms, a 4% credit and a 9% credit, and the credit may be claimed for each of the 10 years beginning with the year the development is placed into service. Over the 10-year credit period, the 4% credit provides financing equal to 30% of the present value of construction costs of the low-income units in the development, not including land. Similarly, the 9% credit is intended to provide financing equal to 70% of the present value of construction costs. The 4% credit is available to properties partially financed with tax-exempt bonds, which are issued under a federal volume cap allocated to the state. It should be noted that properties receiving the 9% credit generally are not eligible for tax-exempt bonding to finance construction.

Properties receiving either the competitive 9% or non-competitive 4% credit must receive a determination that identifies a need for housing in a given market, as well as the need for LIHTC support in order to be financially feasible. Further, applicants must undergo a scoring process that determines eligibility, with a minimum score necessary to receive the credit.

2017 Act 176 creates a nonrefundable credit intended to supplement the 4% federal credit for taxable years beginning after December 31, 2017. Under the program, WHEDA may award up to $7 million in tax credits annually (claimable for six years, for a total of $42 million). Credits are awarded through a competitive application process and are limited to $1.4 million per application. WHEDA also must give preference to developments located in cities, towns, or villages with populations fewer than 150,000.

Property owners are eligible for the state credit as long as: (a) the project meets low-income requirements of the federal LIHTC; (b) the development receives financing with tax-exempt bonding; (c) WHEDA determines the credit is necessary for the financial feasibility of the proposed construction; and (d) the development is compliant with federal nondiscrimination provisions. Property owners are required to maintain compliance with low-income and non-discrimination requirements for at least 15 years.

In the event a development provides less than the contracted amount of low-income units, claimants are subject to recapture of tax credits in the same manner as the federal credit, consisting of a calculation of actual available low-income units relative to the amount of credits already claimed. WHEDA may carry forward any previously unallocated or recaptured credits, in addition to its yearly maximum allocation.

For further information about the federal and state LIHTCs, see the Legislative Fiscal Bureau paper entitled "Wisconsin Housing and Economic Development Authority."

Refundable Tax Credits

As discussed previously, a refundable tax credit is used first to offset gross tax liability in the current tax year and any excess amount of credit may be paid as a check to the claimant. For each of the credits described in this section, a business may also choose to apply some or all of the amount in excess of the claimant's tax liability in that year as an estimated payment towards the following year's tax liability.

Electronics and Information Technology Manufacturing (EITM) Zone Credit. The EITM zone tax credit program created under 2017 Act 58 is intended to attract major business operations to Wisconsin. WEDC can certify businesses as eligible to claim a payroll tax credit over 15 years for up to an aggregate amount of $1.50 billion and a capital expenditure credit over seven years for up to an aggregate amount of $1.35 billion. In order for WEDC to certify a business as eligible to claim the credits, WEDC must contract with a business that begins operations in the EITM zone.

Zone Designation. WEDC cannot designate more than one EITM zone, and the zone cannot include any area outside this state. A zone designation can remain in effect for no more than 15 years.

In determining whether to designate an area as a zone, WEDC must consider: (a) indicators of the area's economic need, which may include data regarding household income, average wages, the condition of property, housing values, population decline, job losses, infrastructure and energy support, the rate of business development, and the existing resources available to the area; and (b) the effect of designation on other initiatives and programs to promote economic and community development in the area, including job retention, job creation, job training, and creating high-paying jobs. To the extent possible, WEDC must give preference to the greatest economic need.

Certification. In order for WEDC to certify a business as eligible to claim the EITM zone credits, WEDC must contract with a business that begins operations in an EITM zone. WEDC cannot certify a business as eligible to claim the payroll credits for services performed outside the state.

EITM Zone Contract. On November 10, 2017, WEDC entered into a contract to certify three Wisconsin corporations that are affiliated with Hon Hai Precision Industry Co., Ltd (Foxconn) as eligible to receive EITM zone credits (SIO International Wisconsin, Inc., FEWI Development Corporation, and AFE, Inc. [the Foxconn entities]). WEDC designated the EITM zone in the Village of Mount Pleasant in Racine County.

EITM Zone Payroll Credits. The EITM zone tax credit program provides a refundable payroll tax credit based upon 17% of the EITM zone payroll of full-time employees employed by the claimant. "Zone payroll" means the amount of state payroll that is attributable to wages paid to full-time employees for services that are performed in the zone or that are performed outside the zone, but within the state, and for the benefit of the operations within the zone.

"Zone payroll" does not include the amount of wages paid to any full-time employees that exceeds $100,000. A "full-time employee" means an individual who is employed in a job for which the annual pay is at least $30,000 and who is offered retirement, health, and other benefits offered to an individual who is required to work at least 2,080 hours per year.

Under the contract, in order to earn EITM zone payroll tax credits, at the end of each year, the Foxconn entities must employ at least the minimum number of cumulative full-time jobs specified in Table 1 at an average annual wage of at least $53,875. In calculating the average wage, wages exceeding $400,000 are not included. Table 1 shows the maximum amount of credit available to be earned in a given year. Subject to certain conditions, unearned payroll credits may carryover to be earned in future years.

EITM Zone Capital Expenditure Credit. If WEDC determines that a certified business makes a significant capital expenditure in the EITM zone, it can certify the business to receive additional tax benefits in an amount to be determined by WEDC, but not exceeding 15% of the business's capital expenditures in the EITM zone in the taxable year. WEDC must, in a manner it determines, allocate the tax benefits a business is certified to receive over a period of seven years.

Under the contract with the Foxconn entities,

Table 1: Disbursement Schedule for EITM Zone Payroll Tax Credits under WEDC Contract

Year	Minimum Cumulative Full-time Jobs Needed to Qualify	Maximum Payroll Credits	Maximum Carryforward in each period	Cumulative Payroll Credit
2018	260	$9,500,000	N/A	$9,500,000
2019	520	19,100,000	$9,500,000	28,600,000
2020	1,820	47,800,000	19,100,000	76,400,000
2021	3,640	84,000,000	20,000,000	160,400,000
2022	5,200	120,300,000	20,000,000	280,700,000
2023	7,150	120,600,000	20,000,000	401,300,000
2024	7,800	120,900,000	20,000,000	522,200,000
2025	8,450	121,100,000	20,000,000	643,300,000
2026	9,100	121,500,000	40,000,000	764,800,000
2027	10,400	121,700,000	40,000,000	886,500,000
2028	10,400	122,000,000	40,000,000	1,008,500,000
2029	10,400	122,300,000	40,000,000	1,130,800,000
2030	10,400	122,700,000	40,000,000	1,253,500,000
2031	10,400	123,000,000	40,000,000	1,376,500,000
2032	10,400	123,500,000	40,000,000	1,500,000,000

"significant capital expenditures" include investments in: (a) machinery and equipment installed and used in the EITM zone; and (b) land and buildings located within the EITM zone. Investments related to residential or commercial, non-industrial property, or construction of such property, are not considered to be eligible capital expenditures.

In order to earn the maximum amount of EITM zone capital expenditure tax credits under the contract ($1.35 billion), the Foxconn entities must employ the target number of full-time jobs shown in Table 2 at the end of each year. If the Foxconn entities do not employ the target number of full-time jobs, the maximum available capital expenditure credit is proportionately reduced by the amount short of the jobs target. Subject to certain conditions, unearned capital expenditure tax credits may carryover to be earned in future years.

Auditing and Verification. Pursuant to 2017 Act 369, WEDC must annually verify, from a sample, the information submitted to it regarding the EITM zone tax credits. Further, under the contract with WEDC, the Foxconn entities are required to engage a certified public accountant to perform attestation of the annual reports submitted to WEDC. Specifically, the accountant reviews a sample of the significant capital expenditures and zone payroll claimed in the reports.

Beginning in 2018, annually for five years, the Legislative Audit Bureau (LAB) must evaluate the process used by WEDC to verify information submitted to it regarding eligibility for EITM zone credits and evaluate whether WEDC appropriately verified, in accordance with statutory and contractual requirements, the amount of EITM zone credits eligible claimants may claim. WEDC must cooperate with LAB for purposes of performing

Table 2: Disbursement Schedule for EITM Zone Capital Investment Credits under WEDC Contract

Year	Jobs Target Needed to Earn Maximum Capital Investment Credits	Maximum Capital Investment Credits
2019	520	$192,857,143
2020	1,820	192,857,143
2021	3,640	192,857,143
2022	5,200	192,857,143
2023	7,150	192,857,143
2024	7,800	192,857,143
2025	8,450	192,857,143

this audit.

Enterprise Zone Credit. The enterprise zone program provides refundable tax credits that can be claimed for eligible expenses for increased employment, retaining employees, employee training, capital investment, and purchases from Wisconsin vendors. WEDC is responsible for designating enterprise zones, certifying taxpayers, allocating and verifying tax credits, and performing other general administrative functions related to the enterprise zone program.

Enterprise Zone Jobs Tax Credit. The enterprise zones jobs tax credit is provided to businesses that are certified by WEDC. The credit is calculated as follows:

a. Determine the lesser of: (1) the number of full-time employees that are employed in an enterprise zone whose annual wages exceed certain thresholds in the tax year, minus the number of full-time employees that were employed in the enterprise zone in the base year whose annual wages exceeded those thresholds; or (2) the number of full-time employees in the state whose annual wages exceed those thresholds in the tax year, minus the number of full-time employees in the state in the base year whose annual wages exceeded those thresholds.

In a Tier I (economically distressed) county or municipality, the wage threshold is the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620). In a Tier II county or municipality, the wage threshold is $30,000. The "base year" is the year prior to the year in which the enterprise zone was created.

b. Determine the claimant's average zone payroll (excluding wage amounts that are over $100,000) by dividing total wages for full-time employees in the zone whose annual wages exceed the applicable threshold, and who the claimant employed in an enterprise zone for the tax year, by the number of employees whose annual wages exceed those thresholds, and who the claimant employed in the enterprise zone in the tax year.

c. Subtract the applicable wage threshold from the amount determined under "b."

d. Multiply the amount determined under "c" by the number determined under "a."

e. Multiply the amount determined under "d" by a percentage determined by WEDC, not to exceed 7%.

Job Retention Tax Credit. An additional tax credit can be claimed for an amount equal to the percentage, up to 7%, as determined by WEDC, of the claimant's zone payroll (excluding wage amounts that are over $100,000) paid in the tax year to full-time employees who were employed in the enterprise zone in the tax year and whose annual wages were greater than the applicable wage threshold described above, not including the wages paid to employees that are used to claim the enterprise zone jobs credit. The total number of employees has to equal or be greater than the number of employees in the base year. Credit claims are limited to five consecutive years.

Retention of Financial Services Technology Business. A credit may be claimed for the percentage, as determined by WEDC, of the claimant's zone payroll paid in the 12 months prior to the certification date to the claimant's full-time employees in the enterprise zone whose annual wages are greater than the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620) in a Tier I county or municipality or greater than $30,000 in a Tier II county or municipality. The amount that the claimant can claim for a taxable year cannot exceed $2 million. A claimant can claim the credit for no more than five consecutive taxable years.

For this credit, WEDC may certify no more than one financial services technology business as eligible to receive this credit. This credit was authorized under 2017 Act 58 and was intended to assist Fiserv, Inc.

Training Component. A supplemental credit may be claimed for up to 100% of the amount paid in the tax year to upgrade or improve the job-related skills of any of the claimant's full-time employees, to train any of the claimant's full-time employees on the job-related use of new technologies, or to provide job-related training to any full-time employee whose employment with the claimant represents the employee's first full-time job. The training must be provided to employees who work in the enterprise zone. Eligible training costs include: (a) cost of the trainer; (b) cost of the training materials; (c) wages of the trainee while in a classroom setting; and (d) either the cost of the trainer or wages of the trainee in an on-the-job or job shadowing setting. Eligible training costs do not include travel expenses, food, and lodging.

Significant Capital Expenditures. A tax credit is provided equal to an amount determined by WEDC, but not exceeding 10% of the claimant's significant capital expenditures in the enterprise zone. A significant capital expenditure is a capital investment in excess of $10 million in a WEDC-designated enterprise zone beyond a certified business's normal capital expenditures that is needed to achieve a specific purpose agreed upon by WEDC.

Purchases from Wisconsin Suppliers. A tax credit may be claimed for up to 1% of the amount the claimant paid in the tax year to purchase goods or services from Wisconsin venders, as determined by WEDC. A claimant cannot claim the credit for expenditures also used to claim the enterprise zone significant capital expenditures tax credit.

Enterprise Zone Designation and Certification. Beginning after December 14, 2018, there is no specific limit on the number of enterprise zones which WEDC may designate. However, under 2017 Act 369, each designation is subject to approval by the Joint Committee on Finance under a 14-day passive review process. WEDC is required to notify the Joint Committee on Finance, in writing, of its intent to designate a new enterprise zone. The notice must describe the new zone and the purpose for which WEDC proposes to designate the new zone.

In determining whether to designate an area as an enterprise zone, WEDC is required to consider: (a) specified indicators of the area's economic need, such as data regarding household income, average wages, and job losses; and (b) the effect of designation on other initiatives and programs to promote economic and community development in the area, including job creation/retention, job training, and creating high-paying jobs. WEDC also considers; (1) whether the project might not occur without the allocation of tax credits; (2) the extent to which the project will increase employment in the state; (3) the extent to which the project will increase economic growth in the state; (4) the extent to which the project will increase the geographic diversity of the available tax credits throughout the state; (5) the financial soundness of the business; and (6) any previous financial assistance the business has received from the Department of Commerce/WEDC. A zone designation cannot last more than 12 years.

Notwithstanding the general considerations for designating a zone, WEDC is required to designate as enterprise zones at least three areas comprised of political subdivisions with populations of fewer than 5,000, and two areas comprised of political subdivisions with populations between 5,000 and 30,000.

In practice, enterprise zone credits have been awarded on the basis of specific projects to individual businesses, rather than awarding credits to businesses located in a specific geographic area.

Eligible businesses that conduct operations in an enterprise zone and that are certified by WEDC can claim the refundable enterprise zone tax credits. The business must enter into a contract with WEDC, which includes penalties for non-compliance, prior to WEDC certification or verification. WEDC may certify for tax benefits any of the following:

a. A business that begins operations in an enterprise zone.

b. A business that relocates to an enterprise zone from outside the state, if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered outside the zone.

c. A business that expands its operations in an enterprise zone, and increases its personnel by at least 10%, and enters into an agreement with WEDC to claim tax benefits only for years during which the business maintains the increased level of personnel. The business must offer compensation and benefits for the same type of work to its employees working in the enterprise zone that are at least as favorable as those offered to its employees working in Wisconsin, but outside the zone.

d. A business that expands its operations in an enterprise zone, and makes a significant capital investment in property located in the enterprise zone, if the following apply: (1) the business enters into an agreement with WEDC to claim tax benefits only for years during which the business maintains the capital investment; and (2) the business offers compensation and benefits for the same type of work to its employees working in the zone that are at least as favorable as those offered to employees working in Wisconsin, but outside the zone.

e. A business that retains jobs in an enterprise zone, but only if the business makes a significant capital investment in property located in the zone, and at least one of the following applies: (1) the business was a manufacturer with a significant supply chain in Wisconsin; or (2) more than 500 full-time employees were employed by the business in the enterprise zone.

f. A business that is located in an enterprise zone and purchases items or services from Wisconsin vendors.

g. No more than one financial services technology business that, after completing a competitive corporate relocation process, retains its corporate headquarters in this state and retains at least 93 percent of its full-time employees in this state who were identified as being full-time employees of the business in the base year, as determined by the corporation.

Certain businesses are ineligible to be certified to receive the enterprise zones credit. If a business is considered an "ineligible business" for purposes of the development opportunity zone credit, that business is also considered ineligible for purposes of the enterprise zone credit.

As shown in Table 3, as of December 21, 2018, 28 enterprise zones are currently active. WEDC has entered into contracts for these zones to award up to $700.6 million of credits that businesses can earn between 2009 and 2029.

Three previously active zones designated for Bucyrus International, Inc., W. Solar Group, Inc., and Kestrel Aircraft Company, Inc. have closed. Bucyrus International, Inc. failed to create and retain the jobs required by its contract and thus WEDC revoked $5,086,950 (55%) of the tax credits the company received under the contract. Kestrel Aircraft Company, Inc. failed to provide its contractually obligated performance reporting requirements. On August 8, 2018, WEDC revoked $717,500 (75%) of the tax credits Kestrel received under the contract. W. Solar Group, Inc. did not meet the contractual requirement of locating its business in Wisconsin. On June 21, 2017, WEDC revoked $320,000 (100%) of the tax credits W. Solar received under the contract. WEDC

Table 3: Enterprise Zone Awards Contracted by WEDC (Millions)

Business Eligible for Enterprise Zone Awards	Contracted Amount of Credits
Mercury Marine	$65.0
Kohl's Corporation	62.5
Quad/Graphics, Inc.	61.7
Green Bay Packaging Inc	60.0
Komatsu Mining Corporation	59.5
Oshkosh Corporation	55.0
Fincantieri Marine Group LLC	42.0
Kimberly-Clark Corporation	28.0
Milwaukee Electric Tool Corporation	26.0
Direct Supply, Inc.	22.5
Haribo of America Manufacturing LLC	21.0
Kwik Trip, Inc	21.0
U.S. Venture, Inc.	20.0
Uline, Inc.	18.6
DRS Power & Control Technologies, Inc.	18.5
InSinkErator	15.5
Plexus Corp.	15.0
Northstar Medical Radioisotopes, LLC	14.0
Amazon.com	10.3
Johnsonville Sausage, LLC	10.0
Generac Power Systems Inc	10.0
Exact Sciences Corporation	9.0
Weather Shield Mfg., Inc.	8.0
ATI Ladish LLC	7.0
Brakebush Brothers, Inc.	6.5
Trane US Inc.	5.5
Dollar General Corporation	5.5
Saputo Cheese USA	3.0
Total	$700.6

collected the tax credit amounts revoked from Bucyrus International, Inc., and referred Kestrel Aircraft Company, Inc. and W. Solar Group, Inc. to DOR to pursue the recoupment of any ineligible tax benefits the companies may have claimed and to cancel any future credit claims.

Prior to filing for tax credits, claimants must file with WEDC an annual project report that includes: (a) the status of the certified business project, which may include the number of jobs created; (b) the number of employees in full-time jobs who are trained (if applicable) and documentation of eligible training costs; (c) the total amount of capital investments, including documentation; and (d) other supporting information relating to tax credits to be claimed by the certified business.

Businesses may not claim enterprise zone tax credits to the extent the basis for the credit is the basis for another tax credit claimed by the business.

In general, "full-time employee" means an individual who is employed in a regular, non-seasonal job and who is required to work at least 2,080 hours per year, including paid leave and holidays. An individual is also considered to be a full-time employee if the individual is: (a) employed in a job for which the annual pay is more than the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620); and (b) offered retirement, health, and other benefits that are equivalent to those benefits offered an individual who is required to work at least 2,080 hours per week.

"State payroll" means the amount of payroll apportioned to this state under the income/franchise tax apportionment rules for multi-state businesses that were in effect prior to the implementation of single sales apportionment in 2008. "Zone payroll" is defined as the amount of state payroll paid to full-time employees for services performed in the enterprise zone. "Zone payroll" does not include the amount of compensation paid to any individual that exceeds $100,000.

"Tier I" and "Tier II" counties and municipalities are designated as such by WEDC. In making the designations, WEDC considers the most current area and state data available for the following indicators: (a) the unemployment rate, median per capita income, average annual wage, and other significant or irregular indicators of economic distress (such as natural disasters, plant closings, or layoffs), as reported by the Department of Workforce Development; (b) the percentage of families below the federal poverty line and the median family and household income, as reported by the U.S. Census Bureau; and (c) manufacturing assessment values by county, as reported by DOR.

For 2018-19, WEDC has designated 25 counties as Tier I. The remaining 47 counties are considered Tier II. Attachment III provides a map showing areas that have been designated as Tier I, which requires a business to meet the lower wage threshold for calculating the credit in 2018-19.

Refundable Research Credit. Pursuant to 2017 Act 59, up to 10% of the research credit may be claimed as a refundable tax credit for taxable years beginning on or after January 1, 2018. The calculation and computation of the research tax credit is described on page 6 of this paper.

Business Development Credit. The refundable business development tax credit can be claimed for eligible expenses for increased employment, retaining employees, employee training, capital investment, and corporate headquarters location or retention in Wisconsin. WEDC is responsible for certifying businesses as eligible to receive credits, verifying eligible activities to claim credits from DOR, and performing other general administrative activities related to the business development tax credit program.

Job Creation and Job Retention Credits. Certified businesses can earn a credit for up to 10% of the amount of wages paid to an eligible employee (full-time job) in a tax year. If the employee is employed in a full-time job at the claimant's business in an "economically distressed area," as determined by WEDC, an additional credit may be awarded for up to 5% of such wages. WEDC uses the same definition for an "economically distressed area" as a "Tier I" county or municipality, as described under the enterprise zone tax credit program. Attachment III provides a map of the 25 counties that are considered economically distressed areas for 2018-19.

In general, WEDC certifies a business for credits based on the number of jobs projected to be created over a three-year period. Certified businesses can earn the credits over three years based on the increase in wages in each year compared to the prior year at the project locations for which the award is made, subject to annual verification. Businesses that receive credits based on job creation must maintain those jobs for a period of five years from the date on which the business was certified as eligible to earn job creation tax credits. Credits cannot be earned for wages over $100,000 per year.

According to WEDC, it generally does not award credits for jobs retained. However, in cases where WEDC does award credits for jobs retained, the credits are calculated based on the certified business's "baseline" wages, and the credits can be earned on an equal basis over a three-year period. A certified business's baseline equals the number of its full-time employees during the 12-month period immediately preceding the certification date. Projects certified for job retention credits have a baseline based on statewide employment, as well as project-specific employment.

For purposes of the credit, a full-time job means a regular, non-seasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay equal to at least 150% of the federal minimum wage ($22,620) and benefits that are not required by state or federal law. If the position is not required to work at least 2,080 hours per year, a position may be considered a full-time job if the annual pay for the position is more than the amount determined by multiplying 2,080 by 150% of the federal minimum wage ($22,620) and the individual in the position is offered retirement, health, and other benefits that are equivalent to the retirement, health, and other benefits offered to an individual in a full-time job. Initial training before an employment position begins is excluded from the definition of a full-time job.

Job Training Credit. A business may be certified to receive tax credits for up to 50% of eligible training costs, as determined by WEDC, to undertake activities to enhance an employee's general knowledge, employability, and flexibility in the workplace; develop skills unique to the person's workplace or equipment; or develop skills that will increase the quality of the business's product. Eligible training costs are the: (a) cost of the trainer; (b) cost of the training materials; or (c) wages of the trainee while in a classroom setting, on-the-job, or job shadowing setting. Travel expenses, food, and lodging are not eligible training costs.

Training activities must be related to the certified project and not for activities that allow an employee to function within the day-to-day operations of the business or for general business growth. Activities that are ineligible for credits include orientation or training on a business process management system. For job training credits verified by WEDC and awarded to a certified business, the full-time job must be maintained for a period of five years following the business's certification date.

Capital Investment Credit. WEDC can certify businesses to earn a credit for up to 3% of the business's personal property investment and for up to 5% of a new real property investment that is made in a capital investment project of $1 million or more. For projects involving a capital investment of less than $1 million, the investment must be equal to at least $10,000 per eligible employee employed in the project for the business to be eligible to receive a capital investment credit.

Corporate Headquarters Credit. A certified business can earn an amount, as determined by WEDC, equal to a percentage of the amount of wages that the business paid to an employee in an eligible position in the taxable year. The eligible position must be created or retained in connection with the business's location or retention of its corporate headquarters in Wisconsin, and the job duties associated with the eligible position involve the performance of corporate headquarters functions.

Under WEDC's policies and procedures, a certified business can earn corporate headquarters credits for up to 10% of the annual wages of eligible positions created or retained in connection with a corporate headquarters location/retention in Wisconsin. Credits cannot be earned for wages over $100,000 per year. In general, for jobs created in connection with the credit, a business is certified by WEDC to earn the credit over a three-year period based on projected full-time job creation over that three-year period. The credit is earned based on the year-over-year increase in wages at the project location, subject to annual verification. Once the credits are verified by WEDC and awarded to the business, the jobs must be maintained for a period of five years from the business's certification date. Job retention credits are calculated based on the "baseline" wages (calculated the same as described under the business development job creation and job retention credits) and are earned on an equal basis over three years.

General Provisions. In order to be certified to receive any of the business development tax credits, a person must operate or intend to operate a business in this state and enter into a contract with WEDC. Certifications can remain in effect for up to 10 years. A certified business is eligible to receive tax benefits if, in each year the business claims the credit, it increases net employment in Wisconsin above the level during the year before the person was certified, as determined by WEDC under its policies and procedures. There is no limit on the number of businesses that may be certified as eligible to receive business development tax credits.

When businesses apply to be certified under the program, WEDC evaluates applications based on certain factors, including: (a) whether the project would occur without the allocation of credits; (b) the extent to which the project will increase employment, contribute to economic growth, and increase geographic diversity of available business development tax credits in Wisconsin; (c) the financial soundness of the business; and (d) any previous financial assistance the applicant received from the former Department of Commerce or WEDC. The applicant must offer all eligible full-time positions that are filled as part of the eligible project compensation that includes health insurance benefits where the employer must cover at least 50% of the employee's health care costs, or other equivalent health insurance benefits that are acceptable to WEDC.

Certain businesses are ineligible to be certified to receive the business development credit. If a business is considered an "ineligible business" for purposes of the development opportunity zone credit, that business is also considered ineligible for purposes of the business development credit.

In general, WEDC limits the total amount of credits that a certified business may receive for an eligible project by calculating the greater of the maximum amount the business would receive under either the job creation or capital investment portion of the credit. A business may be awarded credits in excess of this limit if the project meets any of the following criteria: (a) it is located in an economically distressed area; (b) it locates or retains a corporate headquarters in Wisconsin; (c) a business relocates to Wisconsin; (d) 50% of eligible employee wages are greater than 400% of the federal minimum wage ($29 per hour); (e) WEDC determines that the industry jobs multiplier is greater than 2.0; or (f) WEDC's Awards Administration Committee of the Board of Directors approves any other criteria.

State law permits WEDC to allocate up to $22 million in business development tax credits annually. Any unused allocation can be carried forward to future tax years. Pursuant to 2017 Act 59, WEDC may request the Joint Committee on Finance for an increase of up to $10 million annually for the amount of business development credits that may be allocated.

Farmland Preservation Credit. Owners of eligible farmland (including corporate owners) can receive a refundable tax credit under the farmland preservation program. To be eligible, the claimant must own farmland that: (a) produced at least $6,000 in gross farm profits during the year for which the credit is claimed or at least $18,000 during the year for which the credit is claimed and the preceding two years; and (b) is designated by one or more land-use restrictions preserving the land for long-term agricultural use.

2009 Act 28 effectively replaced the previous farmland preservation tax credit, which was based on the claimant's property taxes and income, with a refundable per-acre credit. Persons holding farmland preservation agreements entered into prior to Act 28 choose to: (a) continue claiming the farmland preservation credit under the formula previously in effect; or (b) modify their agreement to claim the credit created under Act 28. Beginning in tax year 2010, the farmland preservation credit for most claimants is calculated by multiplying the claimant's qualifying acres by one of the following amounts:

a. $10, if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement that is entered into after July 1, 2009;

b. $7.50, if the qualifying acres are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement that is entered into after July 1, 2009; or

c. $5, if the qualifying acres are subject to a farmland preservation agreement that is entered into after July 1, 2009, but are not located in a farmland preservation zoning district.

For additional information on this credit, please see the Legislative Fiscal Bureau's informational paper entitled, "Working Lands and Farmland Preservation Tax Credits."

ATTACHMENT I

Business Tax Credits Used in Tax Year 2013

	Number of Claimants	Total Credits Used	Average Credit Used Per Claimant
Credits Available in Tax Year 2019			
Angel Investment	440	$3,915,477	$8,899
Community Rehabilitation	88	53,630	609
Development Opportunity Zones	81	1,727,724	21,330
Early Stage Seed Investment	264	3,160,061	11,970
Enterprise Zones Jobs	16	38,369,007	2,398,063
Farmland Preservation 2010 and Beyond	11,678	16,905,122	1,448
Insurance Security Fund Assessment	84	428,292	5,099
Manufacturing & Agriculture - Agriculture	6,896	11,325,365	1,642
Manufacturing & Agriculture - Manufacturing	5,126	51,569,269	10,060
Manufacturing Investment	265	1,899,375	7,167
Pre-2010 Farmland Preservation	2,604	2,260,507	868
Research Expense	1,564	28,333,782	18,116
Research Expense - Energy Efficient	13	246,977	18,998
Research Expense - Engine	30	4,315,644	143,855
Shared Research	497	9,301,045	18,714
Supplement to the Federal Historic Preservation	100	3,278,000	32,780
Credits That Are No Longer Available			
Beginning Farmer	6	13,994	2,332
Dairy and Livestock	6,837	16,707,711	2,444
Dairy Co-op Manufacturing Facility	89	74,277	835
Dairy Manufacturing Facility	139	645,499	4,644
Economic Development	639	11,710,639	18,327
Electronic Medical Records	358	2,759,088	7,707
Ethanol and Biodiesel Fuel Pump	46	119,297	2,593
Film Production Services (nonrefundable)	6	51,969	8,662
Film Production Services (refundable)	11	128,696	11,700
Internet Equipment	12	63,529	5,294
Food Processing and Warehousing	150	503,277	3,355
Health Insurance Risk-Sharing Plan Assessments	151	3,524,434	23,341
Jobs	49	6,160,942	125,734
Manufacturer's Sales Tax	36	151,621	4,212
Meat Processing Facility	82	545,610	6,654
Research Facility	136	540,560	3,975
Super Research and Development	41	8,172,479	199,329
Technology Zone	7	28,546	4,078
Water Consumption	128	79,389	620
Other Credits*	N/A	875,015	N/A
Total Credits Used in Tax Year 2013**		$229,945,849	

* Includes the following credits used: (a) engine research facility; (b) film production investment (nonrefundable); (c) film production investment (refundable); (d) post-secondary education; (e) veteran employment; and (f) woody biomass harvesting and processing. Separate lines have been suppressed into one line in order to protect taxpayer confidentiality.

** Totals are not shown for the number of claimants or average claim per claimant because a taxpayer may claim multiple credits.

Source: Department of Revenue Aggregate Statistics and the Office of the Commissioner of Insurance

ATTACHMENT II

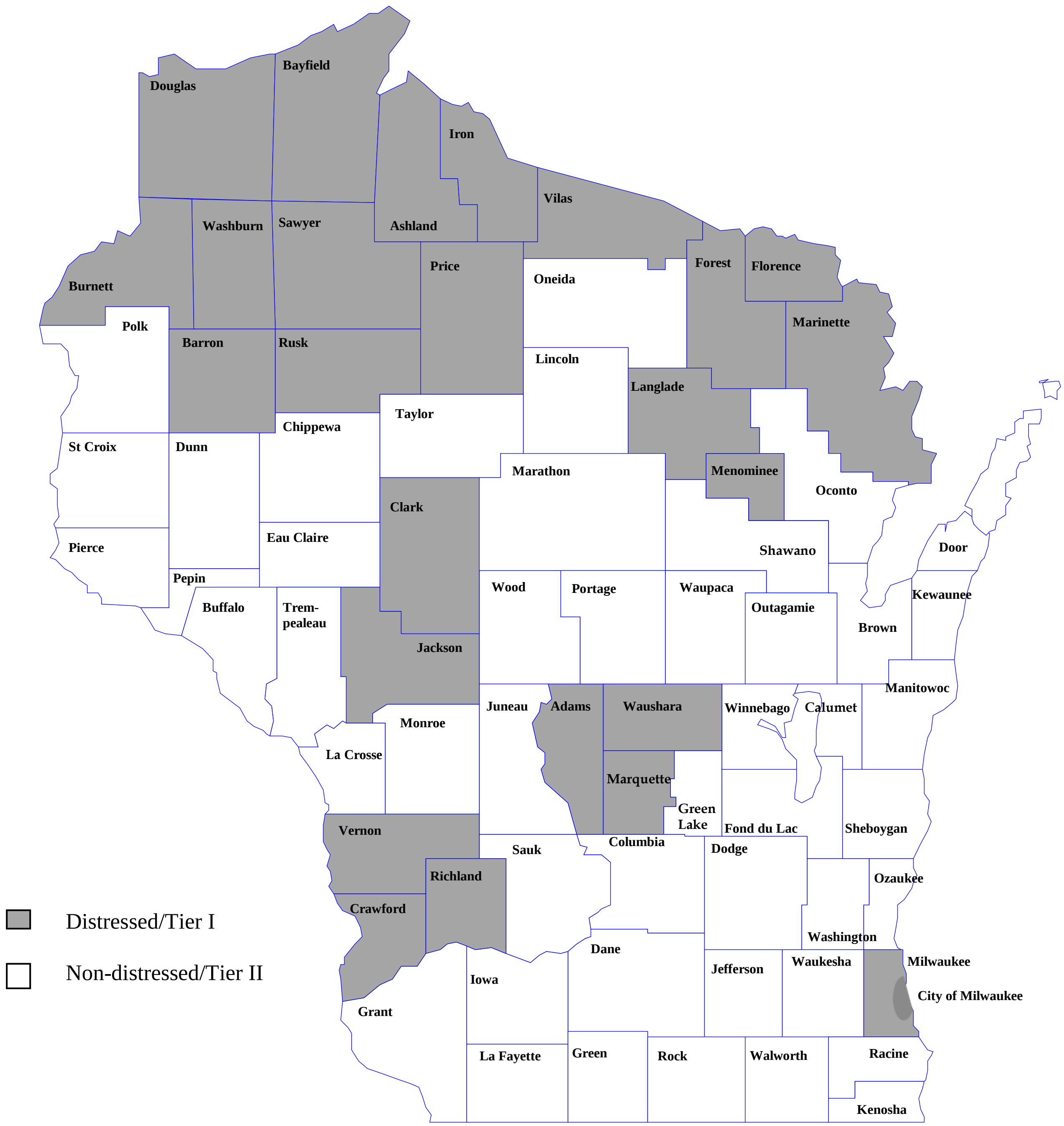
2017-18 Expenditures for Refundable Business Tax Credits

Credits Available in Tax Year 2019	
Enterprise Zone Jobs Credit	$39,221,314
Farmland Preservation Credit, 2010 and Beyond	17,204,037
Business Development Credit	4,624,347
Electronic and Information Technology Manufacturing Zone Credit	0
Refundable Research Credit	0
Credits that are No Longer Available	
Jobs Tax Credit	9,018,555
Meat Processing Facility Investment Credit	197,410
Dairy Manufacturing Facility Investment; Dairy Co-ops Credit	13,356
Total 2017-18 Refundable Credits	$70,279,019

Source: Department of Revenue, 2018

ATTACHMENT III

Distressed/Tier I and Non-Distressed/Tier II Counties and Municipalities Under the Enterprise Zone Tax Credit Program and the Business Development Tax Credit Program (2018-19)



Source: Wisconsin Economic Development Corporation, September 2018